



Sen. Steve Stadelman

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LRB099 19259 HEP 46502 a

1 AMENDMENT TO SENATE BILL 3289

2 AMENDMENT NO. _____. Amend Senate Bill 3289 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Wrongful Tree Cutting Act is amended by
5 changing Sections 1, 2, 3, and 4 and by adding Sections 2.5,
6 2.6, 2.7, 2.8, 3.5, 4.5, and 4.7 as follows:

7 (740 ILCS 185/1) (from Ch. 96 1/2, par. 9401)

8 Sec. 1. As used in this Act, unless the context otherwise
9 requires, the term:

10 (a) "Stumpage" means the value of timber as it stands uncut
11 in terms of an amount per unit of volume expressed as dollar
12 value per board foot for that portion of a tree or timber
13 deemed merchantable by Illinois forest products markets
14 ~~standing tree.~~

15 (b) "Department" means the Department of Natural
16 Resources.

1 (c) "Director" means the Director of Natural Resources.

2 (d) "Party" means any person, partnership, firm,
3 association, business trust or corporation.

4 (e) "Protected land" means land in public or private
5 ownership that is:

6 (1) subject to a permanent conservation right
7 consistent with the Real Property Conservation Rights Act;

8 (2) registered or designated as a Nature Preserve,
9 buffer or Land and Water Reserve under the Illinois Natural
10 Areas Preservation Act;

11 (3) owned by a conservation land trust meeting
12 requirements as set forth in Section 501(c) of the United
13 States Internal Revenue Code; or

14 (4) held in public trust by a local, State, or federal
15 agency and primarily used for one or more conservation
16 purposes, such as wildlife habitat, erosion control,
17 energy conservation, natural community restoration,
18 general reforestation, timber production, or research.

19 (f) "Qualified professional forester or ecological
20 restoration professional" means a person who holds any
21 necessary licenses and has performed the type of remediation
22 work necessary as part of the person's profession for greater
23 than 30% of his or her working hours during each of the
24 preceding 3 years.

25 (Source: P.A. 89-445, eff. 2-7-96.)

1 (740 ILCS 185/2) (from Ch. 96 1/2, par. 9402)

2 Sec. 2. Except as provided in Sections 2.5, 2.7, and 7, any
3 ~~Any~~ party found to have intentionally cut or knowingly caused
4 to be cut any timber or tree, other than a tree or woody plant
5 referenced in the Illinois Exotic Weed Act, which he or she did
6 not have the ~~full~~ legal right to cut or cause ~~caused~~ to be cut
7 shall pay the owner of the timber or tree 3 times its stumpage
8 value.

9 (Source: P.A. 84-138.)

10 (740 ILCS 185/2.5 new)

11 Sec. 2.5. Trees intentionally cut or knowingly caused to be
12 cut on protected land. Any party found to have intentionally
13 cut or knowingly caused to be cut any standing timber or tree,
14 other than a tree or woody plant referenced in the Illinois
15 Exotic Weed Act, on protected land, and the party did not have
16 the legal right to so cut or cause to be cut, must pay the
17 person or entity that owns or holds a conservation right to the
18 land 3 times stumpage value plus remediation costs. Remediation
19 costs include one or more of the following:

20 (1) cleanup to remove trees, portions of trees, or
21 debris from trees cut, damaged, moved, placed, or left as a
22 result of tree cutting from perennial drainage ways or
23 water holding basins;

24 (2) soil erosion stabilization and remediation for
25 issues that were not pre-existing;

1 (3) remediation of damages to the native standing trees
2 and other native woody or herbaceous plant understory;

3 (4) remediation of damages to the native tree
4 understory through coppicing, planting of potted native
5 trees, planting of native tree seedlings as individual
6 practices or in combination as deemed appropriate under
7 Section 3.5 of this Act. Any work under this item (4) must
8 be done by a qualified professional forester or ecological
9 restoration professional;

10 (5) associated exotic plant species control for a
11 period of 3 years with one treatment per year on those
12 portions of the property where trees were wrongfully cut if
13 prior to the encroachment there had been an active and
14 ongoing effort made to control the plants. Exotic plant
15 control must be done by a qualified professional forester
16 or ecological restoration professional;

17 (6) seeding of annual grass to skid trails; or

18 (7) staff salaries, contractor fees, and materials as
19 directly related, documented, and required to address
20 remediation costs under this Section.

21 (740 ILCS 185/2.6 new)

22 Sec. 2.6. Remediation plan. The court may order parties
23 that seek remediation costs for damage to protected land under
24 Section 2.5 to develop a remediation plan pursuant to Section
25 3.5 of this Act. The remediation plan shall delineate the steps

1 to address remediation costs identified under Section 2.5 of
2 this Act.

3 (740 ILCS 185/2.7 new)

4 Sec. 2.7. Trees intentionally cut or knowingly caused to be
5 cut or damaged in residential areas. Any party that, without
6 the legal right, intentionally cut or severely damaged, or
7 knowingly caused to be cut or damaged any live and standing
8 tree or woody plant in a residential yard must:

9 (1) pay the owner of the property 2 times the value of
10 the cut or severely damaged tree or woody plant or 2 times
11 the reduced value resulting from light to moderate damage
12 to the tree or woody plant based on value consistent with
13 the current International Society of Arboriculture (ISA)
14 Guide for Plant Appraisal. Appraisals utilizing the ISA
15 Guide must be calculated and established by a certified
16 arborist or professional consulting forester, either of
17 which is and has been practicing his or her profession for
18 a minimum of 50% of his or her working hours for the
19 previous 3 years;

20 (2) pay the owner remediation costs to remove all tree
21 or woody plant debris resulting from wrongful cutting or
22 damage; and

23 (3) pay the owner remediation cost to repair
24 landscaping plants, materials, and vegetation if the items
25 were damaged in the process or as a result of wrongful

1 cutting or damage.

2 (740 ILCS 185/2.8 new)

3 Sec. 2.8. Landowner rights. Nothing in this Act limits the
4 rights of landowners provided under other laws.

5 (740 ILCS 185/3) (from Ch. 96 1/2, par. 9403)

6 Sec. 3. The courts of this State may order the Director or
7 his representative to secure 3 ~~three~~ independent value
8 appraisals to determine the stumpage value of wrongfully cut
9 timber or trees under Section 2 of this Act. Such order must
10 ~~shall~~ state the reason the value information is needed, the
11 parties involved in the action, the area to be examined and
12 other information needed by the Department to carry out its
13 responsibilities. The court must instruct all ~~All~~ parties to
14 the court action ~~shall be instructed~~ to make themselves
15 available to the Department at reasonable times to assist in
16 the location of areas and material to be examined. Unless
17 otherwise ordered by the court, the parties shall bear equally
18 the cost of expenses ~~Expenses~~ incurred, including but not
19 limited to those for surveys, consulting services, attorney's
20 fees, and administrative costs, ~~shall be borne equally by the~~
21 ~~parties unless otherwise ordered by the court.~~ The court shall
22 allow a plaintiff who prevails to recover the cost of expenses
23 incurred.

24 (Source: P.A. 84-138.)

1 (740 ILCS 185/3.5 new)

2 Sec. 3.5. Court-ordered determination of costs. The court,
3 upon evaluating whether independent appraisals are necessary
4 and appropriate in matters arising under Section 2.5 of this
5 Act, may order up to 3 independent appraisals or alternate
6 valuation calculations of stumpage and remediation costs, and a
7 remediation plan, in conformance with Section 2.6 of this Act.
8 The court shall determine which party will bear the expense of
9 conducting the appraisals or alternate valuations and
10 developing the remediation plan. The court may request that the
11 Director or his or representative assist in securing
12 independent appraisals and advise the court as to adequacy of
13 costs and measures in the remediation plan. The court shall
14 allow a plaintiff who prevails to recover the cost of expenses
15 incurred.

16 (740 ILCS 185/4) (from Ch. 96 1/2, par. 9404)

17 Sec. 4. Within 90 ~~30~~ days after the Department is ordered
18 to establish value appraisals under Section 3, it shall notify
19 the court of its findings of value and expenses. The court
20 shall then average the appraisals and award triple the average
21 value and make final determination as to which party or parties
22 shall pay expenses. The failure of any party to make full
23 payment within the time limits set by the court or to cooperate
24 with the Department shall be considered contempt of court.

1 (Source: P.A. 84-138.)

2 (740 ILCS 185/4.5 new)

3 Sec. 4.5. Department assistance. If the court requests
4 assistance from the Department pursuant to Section 3.5 of this
5 Act, within 90 days after the Department is provided ordered
6 independent appraisals and remediation plans for review, the
7 Department shall provide the appraisals or valuations,
8 remediation plan, and advice to the court. Otherwise, the
9 parties shall directly provide the court with any ordered
10 appraisals or valuations and a remediation plan pursuant to
11 Section 3.5 of this Act. The court shall then make a final
12 determination on the adequacy of the remediation plan and the
13 appraised value to address remediation costs under Section 2.5
14 of this Act. The court shall award triple the stumpage value
15 plus remediation costs and expenses in accordance with any
16 approved remediation plan.

17 (740 ILCS 185/4.7 new)

18 Sec. 4.7. Use of award. Monetary awards for remediation of
19 wrongfully cut trees under Section 2.5 of this Act must be used
20 for costs related to remediation, restoration, or enhancement
21 of the conservation value of the impacted property for
22 protection, restoration, or enhancement.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.".